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SUBJECT: The Lake Erie Commercial Fishing Industry

Sensitive But Unclassified - Protect Accordingly.

11. (U) SUMMARY: Managing fish stocks in Lake Erie, which supports a multi-million dollar commercial fishing industry that supports thousands of jobs - has become a point of contention on both sides of the nearby U.S.-Canada border. Dwindling fish stocks have prompted Ontario and the U.S. states bordering Lake Erie to decrease their fishing quotas and restrict fishing in other ways. In response, commercial fishermen on both sides of the border are asking their respective court systems to force provincial and state governments to restructure the way quotas are set. Both Ontario and U.S.-based commercial fisherman assert that the U.S. sport fishing industry, which generates significantly more revenue for state agencies, has been unfairly gaining quota at the expense of commercial fishing. The Lake Erie Committee (LEC), the intergovernmental body that sets fishing quotas in Ontario and the U.S., is required to base catch quotas on scientific evidence generated by field researchers. Commercial fishermen argue that the LEC has for years based its fishing quota decisions not on science, but on political and economic biases. Ontario's Ministry of Natural Resources (OMNR) is reviewing the request of Ontario commercial fishermen that Ontario unilaterally restructure how it manages quotas. END SUMMARY.

Lake Erie Committee Sets Annual Fishing Quotas

12. (U) State and provincial fishery managers from Michigan, New York, Ohio, Ontario, and Pennsylvania comprise the Lake Erie Committee (LEC), one of five committees (one for each Great Lake) that manage fish stocks in the Great Lakes under the direction of the Great Lakes Fishery Commission, a Canadian and U.S. agency established in 1955 by the Canadian/U.S. Great Lakes Convention on Fisheries. Each year the LEC sets the total allowable catch (TAC) for walleye and yellow perch, the two quota species shared by Canadian and American fishermen. The TAC, representing the number of fish that can be caught by sport and commercial fishers without putting the stocks at risk, is allocated to each jurisdiction by an area-based sharing formula. Ontario then defines the fishing quotas for its own fisherman within the limits defined by the LEC's annual TAC. The LEC's decisions have historically been based on fish stock data provided by field researchers.

Ontario Fishermen Appeal the Quotas

13. (U) Ontario has 212 licensed commercial fishermen, based mostly out of Wheatley and Kingsville. Ontario fishermen catch fish worth about C\$30 million a year at the docks. Once these fish are processed in plants, the value of Ontario's annual catch jumps to more than C\$200 million, and employs 1,500 to 2,000 people. Gill nets, which are banned in all of Lake Erie's U.S. states, are legal and used widely in Ontario. Commercial netting of walleye or other species of fish is not banned in Ontario waters.

14. (U) Since 2001, Ontario commercial fisherman have been openly disputing the province's delegation of responsibility for setting quotas to the LEC. Ontario fishermen argue that annual TAC allocations of yellow perch and walleye are based on U.S. economic and political biases, rather than scientific evidence. They assert that the LEC structure (one member per jurisdiction bordering the lake) and consensual decision-making process are inherently unfair to Ontario, which owns about half of Lake Erie.

15. (U) During 2001-2004, TAC allocations were cut to their lowest levels since Ontario first implemented specific fish quotas for Lake Erie. Walleye TAC for 2001, 2002, and 2003 was set at a level 56% lower than for 2000 and the final 2004 quotas for Ontario were about 27% lower than the 2003 allocations.

16. (U) In 2003 the LEC announced its intention to cut 2004 quotas in the case of walleye by 40-60%, well before the 2003 fish stock data was available. Ontario fishermen saw this as a clear admission that the annual data analysis process was a mere formality used to justify political decisions that had no scientific basis. Yellow perch and walleye were hatched in record numbers in 2003, but U.S. state fish regulatory agencies refused to admit the relevance of the 2003 data to the 2004 decision making process, further fuelling resentment among Ontario commercial fishermen. The Ontario Ministry of Natural Resources insisted that the LEC revisit the 2003 TAC decision. The U.S. agencies, led by the Ohio Department of Natural Resources, forced Ontario into a mediation process adjudicated by the Great Lakes Fishery Commission. The mediation process ultimately failed to produce a resolution, although cuts to the walleye TAC ended up being somewhat lower in 2004 than had been called for in 2003.

17. (U) After the mediation failed, Ontario's commercial fishermen

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formally appealed the 2004 Lake Erie walleye quotas to Ontario's Fish and Wildlife Conservation Act Hearing Officer. In his report to the Minister of Natural Resources, the Hearing Officer wrote, "...my opinion is that the current walleye quotas for Lake Erie are unsupported by the data available at the hearing, and are therefore not reasonable for the conservation of fish." Then-Ontario Minister of Natural Resources (MNR), David Ramsey, cited obligations to the LEC process in his justification for not unilaterally increasing Ontario's TAC. Ontario commercial fisherman subsequently argued that the province has inappropriately handed over its responsibility to manage fish stocks to the LEC. The LEC determines the annual TAC for all of Lake Erie, and, although MNR retains the absolute authority to set Ontario's fish quotas, only once, in 1984, has the Minister exercised that right outside of the LEC process.

18. (U) In March 2007, the LEC lowered the Lake Erie walleye TAC to 5.36 million fish, a dramatic decrease from the 9.886 million fish allowed in 2006, reflecting poor hatches and recruitment in 2002, 2004, and 2006. The LEC also reduced the 2007 TAC for yellow perch to 11.389 million pounds, down from 16.48 million pounds in 2006. The LEC will not announce the 2008 TAC limits until March, but commercial fishermen on both sides of the border expect the quotas to be further reduced this year.

Ohio Having Trouble Enforcing Fish Quotas

19. (U) The Ohio State Division of Wildlife, has publicly stated that it cannot effectively manage its fisheries because Division scientists believe they cannot trust the fish catch data that commercial fishermen report to them.

18 Ohio commercial fishermen and 7 businesses have been convicted of over-fishing about 120 tons of regulated fish in the Ohio waters of Lake Erie during the past few years. In June 2005, in Cuyahoga County, Ohio, a two-year undercover investigation of commercial trap net fishermen ended with Cuyahoga County prosecutors indicting 14 people and five businesses for money laundering, theft, and receiving stolen property, including 40-80 tons of unreported yellow perch.

¶10. (U) In a separate case, on January 24, 2006, in Sandusky, Ohio, the captain of a boat belonging to a Port Clinton commercial fishing company was fined US\$12,100 for his part in a racketeering ring that illegally netted thousands of pounds of yellow perch from Lake Erie, according to the Ohio Department of Natural Resources (ODNR) Division of Wildlife. In another case, announced on March 14, 2006, in Columbus, Ohio, a Port Clinton commercial fishing company and its owners, Richard Stinson and Orville Stinson, were ordered to pay US\$160,000 for their part in a racketeering ring that illegally netted 40 tons of yellow perch which is equal to 6,133 daily sport fishing bag limits.

¶11. (SBU) According to Jim Marshall, assistant chief of Ohio's wildlife division, Ohio anglers exceeded their 2007 perch quotas of 833,000 pounds for the western basin of Lake Erie by more than 20%, or 200,000 pounds. Commercial trap-netters were under their allotted share of 216,000 pounds and sport fishing alone took some 800,000 pounds of perch, facts which Marshall says, will have a significant impact on determining suitable fishing quotas for 2008.

Fishing in U.S. Waters Is Evolving, Especially in Ohio

¶12. (U) U.S. state governments have been shifting fish catch quotas to the sport fishing industry away from the commercial fishing industry on Lake Erie. U.S. states issue only 32 commercial fishing licenses: Ohio has 18; Pennsylvania has 11; Michigan has 3; and New York has 0. There is no legal commercial fishery for walleye in U.S. waters of Lake Erie, except for Pennsylvania waters, but both walleye and perch are promoted as high quality sport fish by state agencies.

¶13. (U) Ohio, wracked by fish poaching scandals, has been tightening regulations on its small commercial fishing industry. Though the volume of fish taken by commercial and sport fishermen in Ohio waters is about equal, Ohio's sport fishing industry generates about US\$700 million in annual license fee revenue for the Department of Natural Resources, while commercial fishing licenses provide only US\$10 million per year. In November 2006 the Ohio legislature debated buying-out all the remaining commercial fishing licenses in Ohio, but the bill failed to pass the legislature. Ohio Senate Bill 77, which requires commercial fishermen to submit to surveillance of their activities, and to purchase, install, and maintain vessel and catch monitoring devices, entered into force in October 2007. On January 29, 2008, a newly formed group, the Great Lakes Commercial Fishermen, announced that it has asked a federal court in Toledo, Ohio to prevent promulgation of the regulations that would implement

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Ohio Senate Bill 77.

Ontario Commercial Fishermen Sue Government of Ontario

¶14. (U) Ontario's commercial fishermen have major concerns about the structure and process of the LEC. They argue that the overwhelming dominance of U.S. agencies in the management of a resource that is shared roughly equally between two countries magnifies the conflict between sport fishing and commercial fishing. The LEC, made up of five members -- four U.S. states (New York, Pennsylvania, Ohio, Michigan) and Ontario, operates by consensus. Ontario Commercial Fisheries Association's (OCFA) Executive Director Peter Meisenheimer argues "The LEC is a caricature of consensus with U.S. agencies imposing their ideological opposition on the commercial fishing industry through their numerical dominance... Committee decisions are driven by an agenda to maximize the sale of sport fishing licenses."

¶15. (U) OCFA Executive Director Meisenheimer says the primary threat to Lake Erie's commercial fishing industry is clear cut: commercial fishing is in a battle of survival against sport fishing advocates, who have a vastly different view of how the lakes should be managed.

In September 2007, two Lake Erie fishermen announced that they were taking the Ontario government to court on behalf of Ontario's commercial fishing industry to challenge how fishing quotas are set. Their suit, which is scheduled to be heard in April, alleges that the LEC is favoring the U.S. sports fishing industry at the expense of Ontario's commercial fishing industry.

Ontario Fishermen Blame U.S. for Over-fishing

¶16. (SBU) In response to dwindling fish stocks, the OMNR unilaterally reduced Lake Erie commercial fishing quotas on January 1, 2008, alleging that the cuts were a combination of low fish reproduction rates and U.S. over-fishing. OMNR has not publicly announced fishing quota reductions; instead commercial fisherman are being so-advised when they purchase their fishing licenses for the 2008 season. OMNR is expected to formally issue a press release with the 2008 fishing quotas after the LEC meets on March 17, 2008.

¶17. (U) There is no general trend in fish stocks across the Great Lakes that would explain the LEC's need to reduce TAC for commercial fishing in Lake Erie. Different species of fish in each of the lakes are experiencing different population fluctuations. In the U.S. states that border Lake Erie, commercial fishing has been significantly reduced. Ontario and U.S. commercial fisherman both are blaming the lucrative sport fishing industry for reducing their livelihood.

¶18. (SBU) COMMENT: Of the five Great Lakes, Lake Erie provides a uniquely cooperative fisheries management case study as the two countries have sought to manage one of the world's largest freshwater commercial fisheries. Erie is the only lake with a bi-national committee that sets an overall fish quota for the lake; individual jurisdictions independently set fishing quotas on all of the other Great Lakes. The cross-border management relationship embodied in the LEC, has highlighted a growing rift between commercial fishermen from both countries and the sport fishing industry. The commercial versus sport fishing dispute is exacerbated by the four to one ratio of U.S. states and Ontario that make up the LEC. This has led commercial fisherman on both sides of the border to ask their respective court systems to force provincial and state governments to restructure the way quotas are set. Ontario commercial fishermen are seeking to persuade the provincial government to abandon the LEC quota-setting process in favor of unilateral action. Ontario's new Minister of Natural Resources told the Consul General earlier this month that she is looking into the complaints and studying the whole issue. Ontario politicians, facing significant job losses in the struggling manufacturing sector, will be particularly sensitive to potential job losses in the province's commercial fishing industry. End Comment.

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